Y 1.1/8:97-718

97TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
2d Session } { No. 97-718

COMPLETED ORIGINAL

BERENDINA ANTONIA MARIA VAN KLEEFF

AUGUST 10, 1982.—Committed to the Committee of the Whole House and ordered to be printed

Mr. FISH, from the Committee on the Judiciary, submitted the following

REPORT

[To accompany H.R. 2193]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2193), for the relief of Berendina Antonia Maria Van Kleeff, having considered the same, report favorably thereon with amendments and recommend that the bill as amended do pass.

The amendments are as follows:

Page 2, line 1, delete the words "and conditional entries".

Page 2, lines 4 and 5, delete the words "and entries".

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence to the former spouse of a United States citizen. The bill provides for the payment of the required visa fee and for the deduction of visa numbers. The amendment conforms to existing law.

STATMENT OF FACTS

The beneficiary is a 42-year-old native and citizen of the Netherlands who was married to a U.S. citizen 15 years and traveled with him on various overseas positions thus rendering her ineligible to retain her lawful permanent resident status. Her husband filed an immediate relative petition for her on a second occasion June 22, 1978 but her divorce in August of 1979 made her unable to be a beneficiary of the petition. She entered the U.S. April 24, 1978 as a visitor and resides in this country with her seven year old U.S. citizen son. She earns $7,500 per year and receives child support amounting to $14,000 per year.

The pertinent facts in this case are contained in a letter dated November 10, 1981, from the Commissioner of the Immigration and Naturalization Service to the Chairman of the Committee on the Judiciary regarding the legislation. That letter and accompanying memorandum read as follows:

89-007 O

U.S. DEPARTMENT OF JUSTICE,
IMMIGRATION AND NATURALIZATION SERVICE,
Washington, D.C., November 10, 1981.

A13 527 639.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives,
Washington, D.C.

DEAR MR. CHAIRMAN: In response to your request for a report relative to the bill (H.R. 2193) for the relief of Berendina Antonia Maria Van Kleeff, there is attached a memorandum of information concerning the beneficiary.

The bill would grant the beneficiary permanent residence in the United States as of the date of its enacement, upon payment of the required visa fee. It also directs that an appropriate visa number deduction be made.

The beneficiary, a native of the Netherlands, is chargeable to the nonpreference portion of the numerical limitation for immigrants.

Sincerely,

DAVID M. DIXON,
Executive Assistant.
(For the Commissioner).

Enclosure.

MEMORANDUM OF INFORMATION FROM IMMIGRATION AND NATURALIZATION SERVICE FILES H.R. 2193

The beneficiary, Berendina Antonia Maria Van Kleeff also known as Berendina Antonio Maria Vonk, a native and citizen of the Netherlands, was born on November 10, 1938. She resides with her United States citizen son in Niceville, Florida. She is currently employed as a secretary at the Twin Cities Hospital, Niceville, Florida earning about $7,500 a year. She receives spousal and child support payments in the amount of $14,400 a year.

The beneficiary resided in the Netherlands from birth until she married John Wyatt Van Kleeff, a United States citizen by birth, on December 14, 1962 in the Netherlands while he was stationed in West Germany in the United States Army. An immigrant visa was issued to her at the American Consulate in Frankfort, Germany on March 4, 1963. She entered the United States as a lawful permanent resident on March 29, 1963. While her husband was stationed at Fort Sill, Oklahoma their son, Arvin, was born. In June of 1964 she and her son went to the Netherlands while her husband was stationed in Vietnam. She returned to the United States in June of 1966 prior to her husband's return from Vietnam. After her husband returned to the United States they resided in Virginia until her husband was discharged from the army in February of 1967. In April of 1967 she accompanied her husband to Thailand where he was employed by Calabria Company as a transportation manager. They resided there until June of 1969. Her husband then obtained a job with a company in

Saigon, Vietnam where they resided until July of 1970. Inasmuch as she had been absent from the United States from April of 1967 until September of 1970 she lost per permanent residence status, so prior to their departure from Saigon she went to the American Consulate where she applied for and was reissued an immigrant visa. On September 3, 1970, she was readmitted to the United States as a lawful permanent resident accompanied by her spouse and child. They remained in the United States until June of 1971 at which time her husband accepted a position with a firm in Germany. The family moved to Germany in June of 1971 and remained there until March of 1977, thereby abandoning her permanent residence. On December 12, 1977, the beneficiary applied for and was issued a nonimmigrant visitor's visa at the American Consulate, Jeddah, Saudi Arabia.

On April 24, 1978, the beneficiary entered the United States and was admitted as a nonimmigrant visitor for pleasure for a period not to exceed two months. Her husband returned to his employment in Saudi Arabia in May of 1978, leaving her and their son in the United States. She claims he filed an immediate relative petition at the American Consulate, London which in turn was forwarded to hte American Consulate, Frankfort for adjudication. She received no reply to inquiries to the American Consulate until August of 1979 when the consulate advised her that they could not find her petition and suggested that her husband resubmit the petition. In August of 1979 her husband filed for divorce. The divorce became final August 21, 1979.

On May 24, 1982, the Department of State submitted a report on this bill which reads as follows:

DEPARTMENT OF STATE,
Washington, D.C., May 24, 1982.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary, House of Representatives.

DEAR MR. CHAIRMAN: In reference to your request for a report concerning the case of Berendina Antonia Maria van Kleeff, beneficiary of H.R. 2193, 97th Congress. The United States Embassies at London and Jidda have informed the Department that a check of those posts' files has revealed no information regarding the beneficiary, who is presently residing in the United States. The United States Consulate General at Frankfurt has also checked its files and has found no information regarding a Berendina Antonia Maria van Kleeff.

The bill would grant the beneficiary permanent residence in the United State as of the date of enactment upon payment of the required visa fee. It also provides for the deduction of one number from the total number of immigrants and conditional entrants who may be admitted from the beneficiary's country of birth.

With cordial regards,

Sincerely,

POWELL A. MOORE,
Assistant Secretary for Congressional Relation.

Mr. Hutto, the author of the bill, provided the following statement in support of this legislation:

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., April 7, 1981.

Hon. ROMANO L. MAZZOLI,
Chairman, Subcommittee on Immigration, Refugees, and International Law, House Committee on the Judiciary, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: On February 25, 1981, I introduced H.R. 2193 on behalf of Berendina Antonia Maria van Kleeff which will lawfully admit her as a permanent resident of the United States.

Mrs. van Kleeff last entered the United States via port of entry Miami, on a tourist visa which was issued at the American Embassy in Jidda, Saudi Arabia, on September 7, 1977. Mrs. van Kleeff, a resident of Wierdin, the Netherlands, was born on November 10, 1938. She currently resides at 1117 Coral Drive, Niceville, Florida 32578.

Berendina Vonk married John Wyatt van Kleeff, a United States Army Sergeant stationed in West Germany, on December 14, 1961, in Almelo, the Netherlands. She gave birth to a son, Arvin William van Kleeff, on July 10, 1963, at the Fort Sill Army Hospital in Lawton, Oklahoma. For the next fifteen years, Berendina and Arvin accompanied John van Kleeff to Bangkok, Thailand; Saigan; Jidda, Saudi Arabia; and West Germany while he was employed at various military and civilian occupations. The van Kleeffs also resided in the United States at various points during this time. However, Berendina van Kleeff was never able to reside 3½ years on American soil for the administrative residency requirements.

Mrs. van Kleeff and her son entered the United States for the last time on April 24, 1978. Shortly after her arrival in Florida, she contacted the United States Immigration and Naturalization Service (INS) in Miami, Florida, to obtain information regarding permanent residency. She was informed by the INS that her husband must file a petition on her behalf at any American Embassy or Consulate outside the United States. Her husband, who was still employed in Saudi Arabia, and had returned to Jidda to resume his job on the 14th of May, 1978, filed the required petition on June 22, 1978, at the American Embassy in London, England. The petition was then forwarded by the Embassy to the American Consulate General in Frankfurt/am Main, Germany, for processing. In July, 1978, it was requested by the Frankfurt Consulate that Berendina supplement this petition with an original marriage certificate and a $10.00 money order and she complied immediately.

The American Embassy in London informed Mr. van Kleeff that Berendina would receive notification from one of the United States INS offices in Florida within approximately three months, however, three months passed with no communication from the INS. Mrs. van Kleeff contacted the INS which then advised her to write to the American Consulate General in Frankfurt. She did this on November 17, May 4, and July 1, 1979, but received no response regarding the status of her immigration procedures.

During the month of August, 1979, Mr. van Kleeff came to Florida and filed for a divorce against her wishes. The divorce was granted

and declared final on August 21, 1979. One week after the divorce was final, Berendina received a letter from the American Consulate in Frankfurt advising that a petition on her behalf had indeed reached their office, but they could give no indication of what might have happened to that petition and suggested that her husband file a new petition. Unfortunately, Mrs. van Kleeff no longer had a husband.

At this point, Berendina pursued matters herself and contacted the INS in Jacksonville, Florida. She was invited by INS officials to explain her situation on June 3, 1980. After meeting with them, she was informed that no avenue was open to her and therefore, could no longer remain a resident in the United States. Furthermore, she was given until August 3, 1980, to depart voluntarily. As a last resort, Mrs. van Kleeff contacted my office for assistance. I then contacted Mr. Raymond Morris, District Director, and Mr. Richard Gulledge, Deputy Director of INS in Miami during July, 1980, and urged them to halt any deportation of Mrs. van Kleeff while I introduced private legislation on her behalf and pending further investigation by this Subcommittee.

I introduced private legislation. H.R. 7785, on behalf of Berendina Antonia Maria van Kleeff on July 21, 1980. Unfortunately, in November, 1980, I was contacted by Congresswoman Holtzman, Chairwoman of the Subcommittee on Immigration, Refugees, and International Law, and advised that this legislation would not be considered during the 96th Congress due to time constraints and a full schedule.

Mrs. van Kleeff is financially self-supportive, a homeowner, a taxpayer, and most importantly, the mother of a minor American subject. My office has received numerous letters from constituents of the First District which speak highly of Mrs. van Kleeff and her contributions to Northwest Florida. In my contacts with Mrs. van Kleeff, I have found her to be someone that will be an asset to this nation and should be granted permanent residence. Therefore, I urge you, Mr. Chairman, to support this legislation.

I thank you for your time and consideration of this matter.

With warm regards.

Sincerely,

EARL HUTTO.

The author also supplied the following information to clarify the beneficiary's attempts to retain permanent resident status:

944 RUE DE PALMS, W., NICEVILLE, FLA.,
January 12, 1982.

Hon. EARL HUTTO,
House of Representatives, Cannon Building,
Washington, D.C.

DEAR CONGRESSMAN HUTTO: This is in response to your request to answer Chairman Romano L. Mazzoli's question in regard to my immigration problem.

Chairman Mazzoli wishes to know what steps I might have taken in order to retain my status as a lawful permanent resident of the United States in 1971 when I departed from this country to join my husband in West Germany, after I had just reinstated my status in 1970.

I shall make an attempt to answer this question to the best of my ability, though this is not an easy question to answer.

When I immigrated to the United States for the second time in 1970, my husband had enrolled as a student at the Spartan School of Aero-

nautics in Tulsa, Oklahoma. After he completed his studies there, he found it impossible to obtain a suitable position as a pilot within the borders of the United States at the time due to the lack of job availabilities in the aviation world. He therefore accepted a position as General Manager of an American flight school based in West Germany. Our initial intent was to return to the United States as soon as the possibility for a feasible job in aviation became more promising. This however was not the case and we remained in West Germany for 6 years.

During this period we were financially unable to allow an annual trip to the United States in order for me to retain my status as a lawful permanent resident of the United States. I was not then, nor am I aware now that I might have undertaken certain steps to secure my status as a resident while abroad without entering the United States within the one year period of absence allowed to holders of a "green Card".

Consequently, when we returned to the United States in 1978, I was under the impression that I had to re-immigrate as I did in 1970 as a result of too long an absence from this country. Since I was informed by the U.S. Embassy in London, England that it was perfectly acceptable for me to start the immigration procedures while already in the United States, I entered the U.S. on a Tourist Visa. I was told by the U.S. Embassy in London that my husband should file a petition on my behalf within the three months period allotted on my tourist visa. This he did at the U.S. Embassy, however, this petition was "lost" according to the U.S. Consulate in Frankfurt, Germany where this petition had been forwarded to by the U.S. Embassy in London. (See attached copy.)

Of course, the outcome of all this confusion resulted in rather unfortunate events and I was finally presented a deportation order by the Immigration and Naturalization Department on the 3rd of July, 1980. The main reason being that I was divorced by my husband in August 1979.

Hopefully, this answers Chairman Mazzoli's question, however, I shall be happy to answer any further questions he may have to clarify my dilemma.

On another note, I have enclosed a copy of a summons sent to me by the Immigration and Naturalization Department informing me of an upcoming hearing of which the date has not yet been determined. The charge is clearly an allegation that I have overstayed my welcome in this country.

Once again, I would like to express my sincere appreciation and gratitude for every assistance you may be able to give me in the future.

Also, I wish to extend my best wishes to you and your staff for 1982.

Warmest regards.

Sincerely yours.

BERENDINA VAN KLEEFF.

BUDGETARY INFORMATION

This legislation does not provide new budget authority and no estimate or comparison has been received from the Director of the Congressional Budget Office.

OVERSIGHT STATEMENT

The Committee exercises general oversight jurisdiction with respect to all immigration and nationality matters but no specific oversight is contemplated in this instance.

COMMITTEE RECOMMENDATIONS

Upon consideration of all the facts in this case, the Committee is of the opinion that H.R. 7193, amended, should be enacted and accordingly recommends that the bill do pass.

○